

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF DELAWARE**

**IN THE MATTER OF THE PETITION )**  
**OF THE STAFF OF THE DELAWARE )**  
**PUBLIC SERVICE COMMISSION AND )**  
**THE DELAWARE DIVISION OF THE ) PSC DOCKET NO. 20-0217**  
**PUBLIC ADVOCATE FOR APPROVAL OF )**  
**REVISIONS TO DELMARVA POWER & )**  
**LIGHT COMPANY'S ELECTRIC TARIFF )**  
**(FILED MARCH 10, 2020) )**

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**ORDER NO. 9564**

**AND NOW**, this 1<sup>st</sup> day of April 2020, the Delaware Public Service Commission ("Commission") determines and orders as follows:

**WHEREAS**, on March 10, 2020, The Staff of the Delaware Public Service Commission ("Staff" or "Commission Staff") and the Delaware Division of the Public Advocate ("DPA") petitioned (the "Petition") the Commission for approval of certain revisions to Delmarva Power & Light Company's ("Delmarva" or the "Company") tariffs governing Delmarva's provision of electric distribution services; and

**WHEREAS**, in support of their Petition the Staff and the DPA alleged that:

- A. In February 2007, Delmarva filed an application with the Commission for approval of a proposal to implement demand side management and energy efficiency programs and to install advanced metering infrastructure ("AMI" or "Smart Meters"). To persuade the Commission to approve its AMI proposal, Delmarva told the Commission that AMI would "... allow the Company to collect and transmit customer information such as billing data, usage patterns, voltage levels and outage information, and ultimately send information to Delmarva's computer system, where the Company could process it and use it to better serve customers."<sup>1</sup>
- B. Delmarva asked for, and received, regulatory asset treatment for the costs of implementing AMI.<sup>2</sup> Delmarva ratepayers have paid, or are still paying, \$72.04 million associated with installing AMI,<sup>3</sup> and \$39 million associated with the premature retirement of analog electric meters, deferred operating and maintenance costs, incremental depreciation expense, and returns on the regulatory assets that the Commission authorized Delmarva to create to record AMI-related expenses.<sup>4</sup>

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<sup>1</sup>Docket No. 07-28, "Blueprint for the Future," Application, at p 8. All cited pages of the Application and testimonies from witnesses in other dockets addressing AMI are included in Exhibit 1.

<sup>2</sup>Docket No. 07-28, Order No. 7420, at p.5 (Sept. 16, 2008).

<sup>3</sup>Docket No. 11-528, Prefiled Direct Testimony of William Gausman at p. 14, Table 5.

<sup>4</sup>Docket No. 11-528, Direct Testimony of Gary Cohen, pp. 5-6.

- C. Since the current Public Advocate took office, he and his staff have received numerous complaints from customers who were either initially placed on Medium General Service Secondary Rate ("MGSS") based on a previous occupant's usage, or who were automatically transferred to MGS from Small General Service-Non Demand ("SGSND") because they used more than 3500 kWh for two consecutive months, but have never been returned to SGSND after twelve months of not exceeding this threshold. This is a significant issue because MGS customers pay a hefty monthly demand charge in addition to a higher fixed customer charge, while SGSND customers pay a much less expensive monthly customer charge and no demand charges.<sup>5</sup>
- D. Based on the Company's currently approved tariff, a customer is automatically transferred to MGSS upon reaching the 3500 kWh usage level for two consecutive months, but the customer cannot return to SGSND until they have remained below the 3500 kWh threshold for twelve consecutive months. And even if they do that, they are not automatically returned to SGSND. Rather, the customer is required to contact Delmarva and specifically ask to be returned to SGSND – and sometimes they are not returned even when they have asked. The same is true for customers that are transferred from MGSS to Large General Service Secondary Rate ("LGSS"): the transfer to LGSS is automatic, but customers must ask Delmarva to be returned to MGSS
- E. This has caused many commercial customers to overpay for service because the transfers from MGSS to SGSND and from LGSS to MGSS are not automatic, although the transfers from SGSND to MGSS and MGSS to LGSS do occur automatically.
- F. Delmarva has informed the DPA that approximately 5,000 of the MGSS customers potentially qualify for SGSND, and approximately 200 of the LGSS customers (collectively, "Commercial Customers") potentially qualify for MGSS. If Delmarva can automatically transfer customers to MGSS/LGSS when their usage exceeds the limits of SGSND/MGSS, then the Petition contends that provisions that automatically transfer customers back to SGSND/MGSS when they once again become eligible for those rate classifications should be offered.
- G. The Company informed Staff and the DPA that when a new Customer begins taking service in a Premise that was previously occupied by a Customer taking service under Service Classifications MGSS or LGSS, the Company automatically places the new Customer on the same Service Classification as the previous occupant of the Premises. The Company does not inquire of the new Customer what type of business it will be conducting at the Premises. However, those businesses may have significantly different usage and demand than a manufacturing business. Rather than simply assuming that the new Customer will have the same usage and/or demand as the previous occupant, the Company's Customer Service Representatives should ask the new Customer what type of business will be operated on the Premises and assist the

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<sup>5</sup>Volumetric rates are higher for SGSND customers than MGSS customers, but SGSND customers do not pay demand charges.

new Customer in selecting the Service Classification that is most financially advantageous to the new Customer.

**WHEREAS**, the Staff and the DPA propose the immediate modification to certain of Delmarva's tariff leaves to address the issues relating to the Commercial Customers now rather than await the conclusion of the current rate case, since the rates being charged these Commercial Customers are not subject to refund and time is of the essence given the adverse economic consequences of the COVID-19 pandemic; and

**WHEREAS**, on March 13, 2020, in response to the Petition, Delmarva filed a Motion to Consolidate the Petition with its March 6, 2020 Application for an increase in electric base rates (Docket No. 20-0149) and stated in support of its Motion the following:

- A. The Petition was brought in order to protect certain Commercial Customers from "overpaying" for electric service based on alleged misclassifications of their current rate classifications. The classification matter came to light based upon a few complaints received by DPA and Commission Staff from Commercial Customers who believe they are improperly classified under the MGSS or LGSS service classification, or who believed they were improperly transferred to the MGSS service classification from the SGSND service classification.
- B. At no time has Delmarva been overcharging or improperly billing these Commercial Class customers. Rather, Delmarva has been and is billing Commercial Class customers in accordance with the terms in its existing Electric Tariff, at terms and rates reviewed by DPA and Commission Staff and approved by the Commission in Delmarva's last electric base rate case.
- C. Neither Commission Staff nor DPA make any allegation (because they cannot) that Delmarva is improperly applying the applicable provisions of its Electric Tariff relative to the Commercial Customers. In fact, Delmarva is in full compliance with the language of its Electric Tariff, as previously approved by the Commission.<sup>3</sup> Commission Staff and DPA apparently are not satisfied with the speed in which Delmarva proposes to address the possible rate reclassification process for some of the Commercial Customers
- D. To address the matter raised by Commission Staff and DPA requires a careful analysis and a holistic approach, which Delmarva has proposed as part of its Application in Docket No. 20-0149.

- E. In its Base Rate Case Application, Docket No. 20-0149, Delmarva proposed a specific path forward to address the matter with the reclassification of eligible Commercial Customers to be accomplished by October 1, 2020, approximately a six-month period.

**WHEREAS**, on March 17, 2020, Staff and the DPA provided a Response to Delmarva's Motion to Consolidate, opposing it, and suggesting to the Commission that Delmarva's proposal that customers wait up to more than 12 months before it offers any relief to those 5,200 customers, who may be paying more than necessary for electric service is unacceptable, pointing out that as many as one-third of Delmarva's MGSS customers may qualify for the SGSND service and one-half of its LGSS could be on the MGSS service classification.

**WHEREAS**, on March 18, 2020, the Commission in a telephonic meeting<sup>6</sup> heard argument from the parties on the Petition, Delmarva's Motion to Consolidate, and Staff and the DPA's opposition to the Motion to Consolidate:

**NOW, THEREFORE, BY THE 4-1 VOTE OF CHAIRMAN WINSLOW AND COMMISSIONERS CONAWAY, DREXLER, AND KARIA (COMMISSIONER GRAY OPPOSED), THE COMMISSION HEREBY FINDS AND ORDERS AS FOLLOWS:**

1. That the Petition of the Staff and the DPA is hereby granted and the Motion to Consolidate is denied.
2. That the Tariff leaves attached hereto shall be amended as set forth in Exhibit A, attached hereto.
3. That within 30 days of the date of this Order Delmarva shall verify and validate the Commercial Customers eligible to be reclassified to a different service classification from the pool of eligible Commercial Customers originally identified, being MGSS (approximately 5,000) and LGSS (approximately 200).

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<sup>6</sup> Pursuant to the Governor's Declaration of a State of Emergency, effective March 13, 2020, the Commission meeting was conducted via teleconference.

4. That Delmarva shall immediately begin notifying all eligible Commercial Customers in rate classifications MGSS and LGSS of their potential eligibility for a different service classification. All customers shall be notified of their potential eligibility to take electric service under a lower rate classification no later than May 1, 2020.

5. That within 60 days of the date of the Order Delmarva shall develop and test an alternative methodology for reclassifying these Commercial Customers, which will minimize the need to visit a Customer's Premise in light of the restrictions currently placed into effect by Governor Carney pertaining to the COVID-19 pandemic.

6. That within 90 days of the date of this Order all MGSS and LGSS customers eligible to take electric service under a lower rate classification shall have been contacted and transferred to a lower rate classification for their respective net usage beginning with the June 2020 meter reading date, with their July 2020 bill reflecting the new service classification, if applicable, and the new billing rate.

7. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

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Chair

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Commissioner

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Commissioner

Commissioner

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Commissioner

ATTEST:

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Secretary

## EXHIBIT "A"

Delmarva Power & Light Company

P.S.C. Del. No. 8 - Electric  
Second Revised Leaf No. 7

### RULES AND REGULATIONS

#### SECTION I - GENERAL

##### A. Filing and Posting

This Electric Service Tariff is supplemental to the Public Utilities Act of 1974 as amended, and to the Electric Utility Restructuring Act of 1999, and to the "Regulations Governing Service supplied by Electrical Corporations" of the Commission and comprises the Rules and Regulations of service and the Service Classifications under which electricity shall be delivered and supplied to its Customers by Delmarva Power & Light Company. A copy of this Tariff is on file with the Commission and open to inspection in each of the offices of the Company. The Customer's bill shall indicate where to access the Company's Electric Service Tariff.

##### B. Revisions

This Tariff may be revised, amended, supplemented or otherwise changed from time to time, in accordance with rules and procedures of the Commission.

##### C. Statement by Agents

No representative has authority to modify any rule or provision of this Tariff, or to bind the Company by any promise or statement contrary thereto, unless the same shall be incorporated in a contract.

##### D. Rules and Regulations

The Rules and Regulations are a part of every contract for service and govern all classes of service unless otherwise specifically stated by a Service Classification.

##### E. No Prejudice of Rights

The failure by the Company to enforce or the decision not to enforce any of the provisions of this Tariff shall not be deemed a waiver of the right to do so.

##### F. Gratuities to Employees

The Company's employees are strictly forbidden to demand or accept any personal compensation, or gifts, for service rendered.

##### G. Resolution of Disputes

When an Applicant or Customer has an issue to resolve with the Company, they should first contact the Company to resolve the issue. The Company and the Applicant or Customer shall use good faith and reasonable efforts to informally resolve the issue. If the Applicant or Customer wishes to file a formal complaint to resolve a dispute involving the Company, they may do so through the use of the procedures of the Division of the Public Advocate or the Commission.

When an Applicant or Customer has an issue to resolve with an Electric Supplier, other than the Company, the Applicant or Customer should first contact that Electric Supplier to resolve the issue. If the Applicant or Customer contacts the Company, the Company will make every effort to assist them toward possible solutions. The Company is under no obligation to resolve disputes between an Applicant or Customer and an Electric Supplier. If the Applicant or Customer wishes to file a formal complaint to resolve a dispute involving an Electric Supplier, they may do so through the use of the procedures of the Division of the Public Advocate or the Commission.

Resolution of disputes between the Company and an Electric Supplier are addressed under an Electric Supplier Agreement.

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Filed September 2, 2011	Effective	August 9, 2011
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Filed in Compliance with Order No. 8011 in Docket Nos. 09-414 and 09-276T



## RULES AND REGULATIONS

### SECTION V - ADMINISTRATION OF SERVICE CLASSIFICATION

#### A. Load Inspections

When the delivery of service is under Service Classifications which base the billing demand or minimum charge upon the Customer's connected load, the Company's representative shall have access to the premises at reasonable times to inspect and count the connected load.

#### B. Billing Charges

When demands are reassessed or redetermined, or power factor recomputed or remeasured as the result of an investigation made at the Customer's request or by routine inspection, the change of billing to the new demand or power factor shall first apply to the bill for the month during which the investigation is made.

#### C. Choice of Service Classification

When two or more Service Classifications are available for the same class of service, the Customer shall select the Service Classification to be applied. When a Customer seeks to begin service at a Premise previously occupied by a different Customer, the Customer Service Representative assisting the new Customer shall question the new Customer about the type of business to be transacted at the Premise (I.e. retail, repair, manufacturing, etc.) and help the Customer select the Service Classification that is most financially beneficial to the new Customer. The Company shall not automatically place a new Customer on Service Classification "MGS-S" or "LGS-S" simply because the previous occupant of the Premise receive service under those Service Classifications.

#### D. Company Assistance

The Company shall assist the Customer in the selection of the most advantageous Service Classification, but the duty and responsibility of making the selection shall at all times rest with the Customer.

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Filed in Compliance with Order Nos. 6903 and 6930 in Docket No. 05-304

Delmarva Power & Light Company

P.S.C. Del. No. 8 - Electric  
Fourth Revised Leaf No. 60

SERVICE CLASSIFICATION "SGS-ND"

SMALL GENERAL SERVICE-NON DEMAND RATE

A. Availability

This rate is available to any Customer having a maximum monthly usage of less than 3,500 kWh and desiring service at secondary voltage as defined in Section XI-I of the Rules and Regulations. Any Customer taking service under this service classification whose kWh usage for any 2 consecutive billing months is equal to or exceeds 3,500 kWh shall be automatically transferred to Service Classification "MGS-S", billing on and after the date the Customer became subject to Service Classification "MGS-S." effective with the next succeeding billing month. Any Customer so transferred shall remain on "MGS-S" for at least 12 billing months, even though the Customer's monthly usage in succeeding billing months may be less than 3,500 kWh.

B. Contract Term

Contracts, when required, are for an initial period of one (1) year with automatic month-to-month extensions until terminated. A contract for an initial period of more than one (1) year may be required if special investment by the Company is necessary.

C. Monthly Rate

The Monthly Charges and Rates under this Service Classification are shown on Tariff Leaf No. 43.

D. Standard Offer Service

For a new or successive Customer, the Company shall be the Electric Supplier and shall provide its combined Electric Supply & Delivery Service including Standard Offer Service for at least the first billing month for the account, during and after which the Customer shall have the right to provide the proper notice necessary to elect to purchase its electric supply from an Electric Supplier with deliveries to begin on the Customer's next scheduled meter reading date. For a Customer who has the right to select an Electric Supplier and has not exercised that right, the Company shall be the Electric Supplier and shall provide its combined Electric Supply & Delivery Service including Standard Offer Service for the Customer. Once a Customer has purchased its electric supply services from an Electric Supplier other than the Company and then returns to the Company for its electric supply services, the Customer must remain with the Company's Standard Offer Service until its next scheduled meter reading date before the Customer may be served by an Electric Supplier.

E. Minimum Charge

The minimum monthly charge shall be the Customer Charge.

F. Water Heating

This provision is closed to new Customers and to changes in existing service for existing Customers.

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SERVICE CLASSIFICATION "MGS-S"  
MEDIUM GENERAL SERVICE - SECONDARY RATE

A. Availability

This rate is available to any Customer having monthly usage of more than 3,500 kWh for 2 consecutive months and a summer maximum measured demand of less than 300 kW and desiring service at secondary voltage as defined in Section XI-I of the Rules and Regulations. Any Customer taking service under this service classification whose measured demand in any of the summer billing months of June through September is equal to or exceeds 300 kW shall be automatically transferred to Service Classification "LGS-S", effective with billing on and after the date the Customer became subject to Service Classification "LGS-S." effective with the next succeeding billing month. Any Customer served under Service Classification "MGS-S" shall remain on "MGS-S" for at least 12 billing months. Once a Customer has 12 billing months without any 2 consecutive months exceeding 3,500 kWh, that Customer shall be automatically transferred to Service Classification "SGS-ND", effective with billing on and after the date the Customer became subject to Service Classification "SGS-ND." effective with the next succeeding billing month.

B. Contract Term

Contracts, when required, are for an initial period of one (1) year with automatic month-to-month extensions until terminated. A contract for an initial period of more than one (1) year may be required if special investment by the Company is necessary.

C. Monthly Rate

The Monthly Charges and Rates under this Service Classification are shown on Tariff Leaf No. 44.

D. Standard Offer Service

For a new or successive Customer, the Company shall be the Electric Supplier and shall provide its combined Electric Supply & Delivery Service including Standard Offer Service for at least the first billing month for the account, during and after which the Customer shall have the right to provide the proper notice necessary to elect to purchase its Electric Supply from an Electric Supplier with delivers to begin on the Customer's next scheduled meter reading date. For a Customer who has the right to select an Electric Supplier and has not exercised that right, the Company shall be the electric supplier and shall provide its combined Electric Supply & Delivery Service including Standard Offer Service for the Customer.

Once a Customer has purchased its electric supply services from an Electric Supplier other than the Company and then returns to the Company for its electric supply services, the Customer must remain with the Company's Standard Offer Service until its next scheduled meter reading date before the Customer may be served by an Electric Supplier.

E. Measured Demand

1. The measured demand shall be the greatest demand established by the Customer during any fifteen (15) minute period of the month as measured by demand meter, taken to the nearest whole kilowatt, but not less than one (1) kW in any month when kilowatt-hour usage is greater than zero, except as modified by paragraphs 2 or 3.
2. When a Customer has contracted for off-peak service, the measured demand shall be the greatest demand during a fifteen (15) minute interval of the month which occurs during on-peak hours, taken to the nearest whole kilowatt, but not less than one (1) kW in any month when kilowatt-hour usage is greater than zero.
3. For demands of less than twenty kilowatts (20 kW), the demand of a Customer may be determined, at the option of the Company, by measurement, by assessment after test, or by estimation. When a Customer's demand is estimated it shall be the kilowatts resulting from dividing the kilowatt-hours of energy used during the month by one hundred and seventy-five (175) hours, except that no demand will be estimated at more than twenty kilowatts (20 kW) nor less than one (1) kW. The Company, on request of a Customer whose demand is so estimated, will test measure the demand, and thereafter will either assess a demand of not less than one (1) kW based on the test measurements or install a demand meter where the Customer's use of energy exceeds one hundred seventy-five (175) hours use of its demand.

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## SERVICE CLASSIFICATION "LGS-S"

LARGE GENERAL SERVICE - SECONDARY RATE

## A. Availability

This rate is available to any Customer having a summer maximum measured demand of 300 kW or greater and desiring service at secondary voltage as defined in Section XI-I of the Rules and Regulations. Any Customer served under this service classification shall remain on this classification for at least 12 billing months, even though such Customer's maximum measured demand in succeeding summer months may be less than 300 kW. Once a Customer has not had a summer maximum measured demand of 300 kW or greater within the most recent 12 billing months, that Customer shall be automatically transferred to Service Classification "MGS-S", effective with billing on and after the date the Customer became subject to Service Classification "MGS-S." effective with the next succeeding billing month.

## B. Contract Term

Contracts, when required, are for an initial period of one (1) year with automatic month-to-month extensions until terminated. A contract for an initial period of more than one (1) year may be required if special investment by the Company is necessary or for demands greater than one thousand kilowatts (1,000 kW).

## C. Monthly Rate

The Monthly Charges and Rates under this Service Classification are shown on Tariff Leaf No. 45.

## D. Standard Offer Service and Hourly Priced Service

For a new or successive Customer, the Company shall be the Electric Supplier and shall provide its combined Electric Supply & Delivery Service including Standard Offer Service for at least the first billing month for the account, during and after which the Customer shall have the right to provide the proper notice necessary to elect to purchase its Electric Supply from an Electric Supplier with delivers to begin on the Customer's next scheduled meter reading date. For a Customer who has the right to select an Electric Supplier and has not exercised that right, the Company shall be the electric supplier and shall provide its combined Electric Supply & Delivery Service including Standard Offer Service for the Customer.

Once a Customer has purchased its electric supply services from an Electric Supplier other than the Company and then returns to the Company for its electric supply services, the Customer must remain with the Company's Standard Offer Service or Hourly Priced Service, as applicable, until its next scheduled meter reading date before the Customer may be served by an Electric Supplier.

## E. Measured Demand

The measured demand shall be the greater of the maximum demand established by the Customer during any sixty (60) minute period of the month during on-peak hours as measured by demand meter, taken to the nearest whole kilowatt or one-third (1/3) of the maximum demand established during any sixty (60) minute period of the month during the off-peak hours, taken to the nearest whole kilowatt.

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